

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
KANSAS CITY DIVISION**

FARON HEMBREE, an individual, on
behalf of himself and others similarly
situated,

Plaintiffs,

v.

REMINGTON ARMS COMPANY, LLC.,
SPORTING GOODS PROPERTIES, INC.
and E.I. DU PONT NEMOURS AND
COMPANY,

Defendants.

CASE NO. 3:13-CV-05161-DPR

HON. DAVID P. RUSH

ACTION FILED: DECEMBER 17, 2013

**PLAINTIFF'S NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE
PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 41(a)(1)**

PLEASE TAKE NOTICE that Plaintiff Faron Hembree ("Plaintiff"), pursuant to Federal Rule of Civil Procedure 41(a)(1), hereby voluntarily dismisses all claims in this action *without prejudice* as to all Defendants.

Federal Rule of Civil Procedure 41(a)(1) provides, in relevant part:

(a) Voluntary Dismissal.

(1) By the Plaintiff.

(A) **Without a Court Order.** Subject to Rules 23(e), 23.1(c), 23.2 and 66 and any applicable federal statute, the plaintiff may dismiss an action without a court order by filing:

- (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or
- (ii) a stipulation of dismissal signed by all parties who have appeared.

Defendants have neither answered Plaintiff's Class Action Complaint, nor filed a motion for summary judgment. Plaintiff's counsel have consulted with counsel for all Defendants, Dale G. Wills, Esq. of Swanson, Martin & Bell, LLP, who has not yet entered his appearance, and the parties have agreed as follows: (a) that any applicable statute of limitations relating to the claims asserted in Plaintiff's Class Action Complaint of December 17, 2013 is hereby tolled from December 17, 2013 until April 1, 2014; (b) that any party may terminate this tolling agreement on written notice to counsel for the other party; and (c) that upon the expiration of the tolling period, either on April 1, 2014 or an earlier date following written notification of termination, Plaintiff shall have twenty-one (21) days thereafter to refile his complaint.

Accordingly, Plaintiff's Class Action Complaint is hereby dismissed, on the aforementioned terms agreed to by the parties, *without prejudice* and without an Order of the Court.

Dated: December 30, 2013

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, Michael J. Flannery, an attorney, certify that on this 30th day of December, 2013, I served the above and foregoing **Plaintiff's Notice of Voluntary Dismissal Without Prejudice Pursuant to Federal Rule of Civil Procedure 41(a)(1)**, by both e-mail and first-class mail, postage prepaid, on the following:

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Counsel for All Defendants

/s/ Michael J. Flannery
Michael J. Flannery